

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
DALE M. MADDEN CONSTRUCTION, INC.,)
)
Appellant,)
)
v.)
)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
)
Respondent.)

PCHB No. 80-103

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

This matter, the appeal from the issuance of a \$250 civil penalty for the alleged violation of Sections 9.03(b) and 9.15(b) of Regulation I came on before the Pollution Control Hearings Board, Nat W. Washington, presiding, and Marianne Craft Norton, Member, at a formal hearing in Seattle, Washington, on December 18, 1980.

Appellant was represented by Glen Minkler. Respondent was represented by its attorney Keith D. McGoffin.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Board makes these

Findings of Fact

I

Pursuant to RCW 43.21B.260, respondent has filed with the Board a certified copy of its Regulation I and amendments thereto which are noted.

II

On April 14, 1980, at about 3:00 p.m., respondent's inspector noticed a white colored cloud of particulate matter rising from an abrasive blasting operation being carried on by the respondent on a bridge being constructed over the Snoqualmie River near Fall City, Washington by the Washington State Department of Transportation. After positioning himself, the inspector observed the particulate matter and recorded opacities ranging from 30 percent to 100 percent for periods aggregating 15 minutes during the period of one hour.

Glen Minkler, an employee of the appellant who was conducting the abrasive blasting operation, allowed the particulate matter to become airborne without taking reasonable preventive precaution, in that he failed to use water which was reasonably available to prevent it from becoming airborne.

After discussing the matter with Mr. Minkler, the inspector issued notices of violation Nos. 17128 and 17129. On May 5, 1980, respondent sent by certified mail a notice and order of civil penalty in the amount of \$250 for the alleged violations of Sections 9.03(b) and 9.15(b) of Regulation I. The notice and order of civil penalty is the subject of the instant appeal.

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER

1 III

2 Any Conclusion of Law which should be deemed a Finding of Fact is
3 hereby adopted as such.

4 From these Findings, the Board comes to these

5 CONCLUSIONS OF LAW

6 I

7 Appellant acting by and through the employee Glen Minkler violated
8 Section of 9.03(b) of Regulation I as alleged on April 14, 1980, by
9 allowing or causing the emissions of particulate matter from its
10 abrasive blasting operation at such opacity as to obscure an
11 observer's view to a degree equal to or greater than 20 percent.

12 II

13 Appellant acting by and through Glen Minkler violated Section
14 9.15(b) of Regulation I as alleged on April 14, 1980, by allowing
15 particulate matter resulting from appellant's abrasive blasting
16 operation to become airborne without taking reasonable precaution, to
17 wit, failing to use water which was reasonably available, to prevent
18 such particulate matter from becoming airborne.

19 III

20 Any Finding of Fact which should be deemed a Conclusion of Law is
21 hereby adopted as such.

22 From these Conclusions, the Board enters the following
23
24
25

26
27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER

ORDER

The \$250 civil penalty is affirmed.

DATED this 13th of January, 1981.

POLLUTION CONTROL HEARINGS BOARD

Nat W. Washington
NAT W. WASHINGTON, Chairman

Marianne Craft Norton
MARIANNE CRAFT NORTON, Member

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER